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July 24, 2013

Honorable Joan Azrack  
United States Magistrate Judge, USDC  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201  
via ECF

Re: Tito v. Rubin & Rothman, LLC et al.  
12-CV-3464

Dear Magistrate Judge Azrack:

I am counsel for the Defendants named in the above-entitled action. I submit the herein letter motion for permission to file a sur-reply in regard to Plaintiff's motion for fees and costs. The basis of the herein request is that the Plaintiff's reply, filed yesterday, contains numerous misstatements of fact and law. In his letter motion sent in support of Plaintiff's request to add five pages to the Plaintiff's reply brief (Dkt. No. 35) attorney Daniel Schlanger referred to the "seriousness" of the issues in raised in conjunction with Plaintiff's request for fees and costs. The Defendants' should have the opportunity to respond to the Plaintiff's reply papers, especially the assertions set forth by attorney David Lane in his declaration (Dkt. No. 38).

The Defendants' further request that the sur-reply be in the form of a five page letter to Your Honor.

Thank you for your attention herein.

Respectfully submitted,

/ s / *Robert L. Arleo*

Robert L. Arleo

RLA:gra  
cc: All counsel of record via ECF

